

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

BERNADETTE CUNNINGHAM)
and ROSALIND JOHNSON,)
Individually and as Administratrix)
of the Estate of Nekeya Magsby,)
Deceased,)

Plaintiffs,)

v.)

NO. 04-1144 T/An

MICHELIN NORTH AMERICA, INC.,)
and MICHELIN AMERICAS)
RESEARCH & DEVELOPMENT)
CORPORATION,)

Defendants.)

**ORDER GRANTING MOTION TO CONTINUE TRIAL
AND DENYING MOTION TO ESTABLISH NEW DEADLINES**

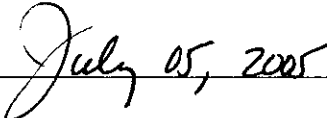
Before the Court is Plaintiff's Motion for Trial Continuance filed on May 18, 2005. For good cause shown, the Motion for Trial Continuance is **GRANTED**. A trial in this matter shall be re-set to begin on **WEDNESDAY, FEBRUARY 22, 2006**. A joint pre-trial Order shall be due to the Court no later than **FRIDAY, FEBRUARY 10, 2006**.

In the instant Motion, Plaintiff requests the establishment of new pre-trial deadlines. After due consideration, the Motion to establish new deadlines is **DENIED** without prejudice. Rule 16(b) of the Federal Rules of Civil Procedure provides that "[a] schedule shall not be modified except upon a showing of good cause and by leave of the District Judge, or when

authorized by Local Rule, by a Magistrate Judge.”¹ Fed. R. Civ. P. 16(b). “The primary measure of Rule 16’s ‘good cause’ standard is the moving party’s diligence in attempting to meet the case management orders and requirements.” *Latonia Inge v. Rock Financial Corp.*, 281 F.3d 613, 625 (6th Cir. 2002) (citing *Bradford v. Dana Corp.*, 249 F.3d 807, 809 (8th Cir. 2001)). At this time, Plaintiff has not demonstrated good cause to modify the current Scheduling Order. Plaintiff argues the establishment of new deadlines is proper because Plaintiff will need future medical treatment; however, under the Federal Rules of Civil Procedure, Plaintiff can supplement the reports of treating physicians and/or experts disclosed in accordance with the Fed. R. Civ. P. 26. Therefore, if and when Plaintiff receives any information surrounding Plaintiff’s injury that is casually related to the accident, Plaintiff can renew her motion to modify the deadlines previously imposed. The Court will reconsider such a motion at that time.

IT IS SO ORDERED.


 S. THOMAS ANDERSON
 UNITED STATES MAGISTRATE JUDGE

Date: 

¹ Pursuant to Administrative Order No. 2003, Motions to Amend Scheduling Order are to be decided by the Magistrate Judge without a specific order of reference.



Notice of Distribution

This notice confirms a copy of the document docketed as number 58 in case 1:04-CV-01144 was distributed by fax, mail, or direct printing on July 7, 2005 to the parties listed.

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